

FILED

MAY 24 2011

U.S. DISTRICT COURT
DISTRICT OF RHODE ISLAND

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

CR 11

089M

UNITED STATES OF AMERICA : CR. No.
:
v. : Violation of Title 18,
: United States Code, Sections
: 1343, 1344; Title 26
JAMES D. LEVITT. : United States Code Section 7206(1)

INDICTMENT

The Grand Jury charges that:

COUNTS 1 - 2

A. Introduction

At all times material to this Indictment:

1. Defendant JAMES D. LEVITT resided within the State of Rhode Island, was involved in the real estate industry, and was employed at Affiliated Closing Services, LLC ("Affiliated").

2. CAT FINANCIAL RESOURCES, LLC ("CAT") and JMAC RESOURCES LLC ("JMAC"), were limited liability companies organized in Rhode Island for the purpose of engaging in real estate transactions. The companies, although they may have had other nominal members, were controlled and operated by defendant JAMES D. LEVITT.

3. Long Beach Mortgage was a financial institution doing business in the District of Rhode Island. The deposits of Long Beach Mortgage were federally insured by the Federal Deposit Insurance Corporation. Long Beach Mortgage was in the business of issuing loans to prospective or current homeowners for the purchase or refinancing of real property.

4. Long Beach Mortgage required that loan applications be completed and submitted before approving a loan, the funds of which would be used to purchase real property. As such,

Long Beach Mortgage required that the loan applications contain truthful and full disclosure of the applicant's financial condition and true terms of the transaction which would be financed by the mortgage. For instance, Long Beach Mortgage required that information concerning the employment of a mortgage applicant be submitted before approving a loan. The employment information sought included the place of employment, job description and salary. Furthermore, Long Beach Mortgage required information concerning the current assets of the applicant, including the amounts of money held in any bank accounts, and the applicant's liabilities.

B. The Scheme

5. During the period from at least in or about April 2006, through in or about September 2006, in the District of Rhode Island and elsewhere, defendant JAMES D. LEVITT knowingly and intentionally devised a scheme and artifice to defraud and to obtain moneys, funds, assets, and other property owned by, and under the custody and control of, a financial institution by means of false and fraudulent pretenses, representations, and promises.

C. Manner and Means

6. It was part of the scheme and artifice to defraud that defendant JAMES D. LEVITT discovered that an acquaintance of his, Albert Viola, owned two properties located at 19 Moses Brown St., Providence, R.I. ("19 Moses Brown"), and 163 Prospect St., Providence, R.I. ("163 Prospect").

7. It was further part of the scheme and artifice to defraud that defendant JAMES D. LEVITT discovered that Albert Viola was encountering financial difficulties in maintaining the two properties located at 19 Moses Brown and 163 Prospect.

8. It was further part of the scheme and artifice to defraud that defendant JAMES D. LEVITT offered to assist Albert Viola regarding the two properties located at 19 Moses Brown and 163 Prospect by purporting to obtain a buyer for the properties who was qualified to obtain financing to purchase the properties.

9. It was further part of the scheme and artifice to defraud that defendant JAMES D. LEVITT induced Thomas Lenahan to apply for mortgages to purchase 19 Moses Brown and 163 Prospect by representing to him that they would be partners in CAT and that CAT would refurbish the properties as condominiums and sell them at a profit.

10. It was further part of the scheme and artifice to defraud that on or about July 21, 2006, defendant JAMES D. LEVITT caused to be submitted to Long Beach Mortgage a loan application for the purchase of 19 Moses Brown on behalf of Thomas Lenahan which he knew contained false information and omitted material information, including but not limited to:

- (a) that Thomas Lenahan was the individual purchasing the property, when the property was intended to be controlled by CAT Financial and defendant JAMES D. LEVITT;
- (b) identifying a property, located at 111 11th Street, Providence, R.I., as being owned by Thomas Lenahan, when the true owner of the property was defendant JAMES D. LEVITT's wife, the property having been quit claimed to Lenahan but remaining under the control of defendant JAMES D. LEVITT and his wife;
- (c) falsely representing that Thomas Lenahan was receiving rental income from the property located at 111 11th Street, Providence, R.I; and,

(d) representing that Thomas Lenahan had made a deposit on the property of \$143,750, when, in fact, no deposit was made to purchase the property.

11. It was further part of the scheme and artifice to defraud that on or about August 28, 2006, despite his financial interest in the transaction, defendant JAMES D. LEVITT conducted the closing on the sale of 19 Moses Brown and prepared and caused to be submitted to Long Beach Mortgage a settlement statement which falsely and fraudulently represented the nature of the transaction, including but not limited to:

(a) representing that Thomas Lenahan was the individual purchasing the property, when the property was intended to be controlled by CAT Financial and defendant JAMES D. LEVITT;

(b) representing that Thomas Lenahan had made a deposit on the property of \$143,750, when, in fact, no deposit would be made to purchase the property; and

(c) representing that \$229,674.40 was to be paid to the seller, when defendant JAMES D. LEVITT then there and well knew that he intended to use the majority of the proceeds of the sale for the benefit of CAT and JMAC.

12. It was further part of the scheme and artifice to defraud that on or about August 31, 2006, provided Albert Viola with a check for \$25,000 as proceeds of the sale of 19 Moses Brown.

13. It was further part of the scheme and artifice to defraud that on or about July 21, 2006, defendant JAMES D. LEVITT caused to be submitted to Long Beach Mortgage a loan application for the purchase of 163 Prospect on behalf of Thomas Lenahan which he knew contained false information and omitted material information, including but not limited to:

(a) that Thomas Lenahan was the individual purchasing the property, when the property was intended to be controlled by CAT Financial and defendant JAMES D. LEVITT;

(b) that the property would be Thomas Lenahan's primary residence, when in fact it was intended to be controlled by CAT Financial and defendant JAMES D. LEVITT;

(c) identifying a property, located at 111 11th Street, Providence, R.I., as being owned by Thomas Lenahan, when the true owner of the property was defendant JAMES D. LEVITT's wife, the property having been quit claimed to Lenahan but remaining under the control of defendant JAMES D. LEVITT and his wife;

(d) falsely representing that Thomas Lenahan was receiving rental income from the property located at 111 11th Street, Providence, R.I.; and,

(e) representing that Thomas Lenahan had made a deposit on the property of \$143,750, when, in fact, no deposit was made to purchase the property.

14. It was further part of the scheme and artifice to defraud that on or about August 28, 2006, despite his financial interest in the transaction, defendant JAMES D. LEVITT conducted the closing on the sale of 163 Prospect and prepared and caused to be submitted to Long Beach Mortgage a settlement statement which falsely and fraudulently represented the nature of the transaction, including but not limited to:

(a) representing that Thomas Lenahan was the individual purchasing the property, when the property was intended to be controlled by CAT Financial and defendant JAMES D. LEVITT;

(b) representing that Thomas Lenahan had made a deposit on the property of \$143,750, when, in fact, no deposit was made to purchase the property; and, (c) representing that \$83,290.81 was to be paid to the seller, when defendant JAMES D. LEVITT then there and well knew that he intended to use the majority of the proceeds of the sale for the benefit of CAT and JMAC;

15. It was further part of the scheme and artifice to defraud that on or about August 28, 2006, despite his financial interest in the transaction, defendant JAMES D. LEVITT conducted the closing on the sale of 163 Prospect and prepared and caused to be submitted to Long Beach Mortgage an "Occupancy Agreement" which falsely and fraudulently represented that Thomas Lenahan intended to occupy the property as his primary residence.

16. It was further part of the scheme and artifice to defraud that on or about September 19, 2006, despite his financial interest in the transaction, defendant JAMES LEVITT advised a principal of Affiliated that the remaining proceeds from the sales of 19 Moses Brown and 163 Prospect had been held in escrow but that she should make out "the checks for Al [Viola] and [he, defendant JAMES D. LEVITT would] hand deliver."

17. It was further part of the scheme and artifice to defraud that on or about September 19, 2006, defendant JAMES D. LEVITT obtained a check in the amount of \$199,674.40 made payable to Albert Viola, from Affiliated, which represented the proceeds remaining from the sale of 19 Moses Brown, and deposited that check in a bank account of JMAC which defendant JAMES D. LEVITT controlled.

18. It was further part of the scheme and artifice to defraud that on or about September 19, 2006, defendant JAMES D. LEVITT obtained a check in the amount of \$78,290.31 made

payable to Albert Viola, from Affiliated, which represented the proceeds remaining from the sale of 163 Prospect, and deposited that check in a bank account of CAT which defendant JAMES D. LEVITT controlled.

19. It was further part of the scheme and artifice to defraud that defendant JAMES D. LEVITT caused CAT to make periodic payments to Albert Viola purportedly for his remaining interests in the proceeds of the sales of 19 Moses Brown and 163 Prospect, but that defendant JAMES D. LEVITT depleted the majority of the funds obtained from the sale of the two properties.

D. Execution of the Scheme

20. Between in or about April 2006, and continuing until at least in or about September 2006, in the District of Rhode Island and elsewhere, the defendant JAMES D. LEVITT knowingly and intentionally executed and attempted to execute a scheme and artifice to defraud Longbeach Mortgage, a federally insured financial institution, as described below:

<u>Count</u>	<u>Date</u>	<u>Execution</u>
1	8/28/06	Obtaining a mortgage in the amount of \$460,000 for the purchase of 19 Moses Brown based on the submission of materially false and fraudulent documents.
2	8/28/06	Obtaining a mortgage in the amount of \$460,000 for the purchase of 163 Prospect based on the submission of materially false and fraudulent documents.

All in violation of 18 U.S.C. §§ 1344 and 2.

COUNTS 3-4

A. Introduction

21. The allegations contained in paragraphs 1 through 4 are repeated and realleged as though fully set forth herein.

B. The Scheme

22. During the period from at least in or about April 2006, through in or about September 2006, in the District of Rhode Island and elsewhere, defendant JAMES D. LEVITT knowingly and intentionally devised a scheme and artifice to defraud and to obtain moneys and property from Long Beach Mortgage and from Albert Viola by means of false and fraudulent pretenses, representations and promises.

C. Manner and Means

23. The substance of the scheme and artifice, and its manner and means are described in paragraphs 6 through 19 of Count One of this Indictment, the allegations of which are incorporated by this reference as though fully set forth herein.

D. Execution of the Scheme

24. On or about the dates set forth below for each count, in the District of Rhode Island and elsewhere, for the purpose of executing the aforementioned scheme and artifice to defraud, defendant JAMES D. LEVITT knowingly transmitted and caused to be transmitted in interstate commerce signs, signals, and sounds, according to the directions thereon, that is, facsimile transmittals, as follows:

<u>Count</u>	<u>Date</u>	<u>Execution</u>
3	8/28/06	A wire transfer of funds, in the approximate amount of \$463,946 from Long Beach to fund the purchase of 19 Moses Brown.
4	8/28/06	A wire transfer of funds, in the approximate amount of \$464,422 from Long Beach to fund the purchase of 163 Prospect.

All in violation of 18 U.S.C. §§ 1343 and 2.

COUNT 5

A. Introduction

25. The allegation contained in paragraph 1 is repeated and realleged as though fully set forth herein.

26. REAL ESTATE RESOURCES, LLC ("RER") was limited liability corporation incorporated in Rhode Island for the purpose of engaging in real estate transactions. The corporation, although it may have had another nominal member, was controlled and operated by defendant JAMES D. LEVITT

27. Chase Bank USA, N.A. ("Chase") was a financial institution doing business in the District of Rhode Island. The deposits of Chase were federally insured by the Federal Deposit Insurance Corporation. Chase was in the business of issuing loans to prospective or current homeowners for the purchase or refinancing of real property.

28. Chase required that loan applications be completed and submitted before approving a loan, the funds of which would be used to purchase real property. As such, Chase required that the loan applications contain truthful and full disclosure of the applicant's financial condition and true terms of the transaction which would be financed by the mortgage. For instance, Chase

required that information concerning the employment of a mortgage applicant be submitted before approving a loan. The employment information sought included the place of employment, job description and salary. Furthermore, Chase required information concerning the current assets of the applicant, including the amounts of money held in any bank accounts, and the applicant's liabilities.

B. The Scheme

29. During the period from at least in on or about May 2007, through on or about November 2007, in the District of Rhode Island and elsewhere, defendant JAMES D. LEVITT knowingly and intentionally devised a scheme and artifice to defraud and to obtain moneys, funds, assets, and other property owned by, and under the custody and control of, a financial institution by means of false and fraudulent pretenses, representations, and promises.

C. Manner and Means

30. It was part of the scheme and artifice to defraud that on or about May 8, 2007, defendant JAMES D. LEVITT caused RER to purchase a property located at 64-66 Centre Street, East Providence, RI. ("Centre Street").

31. It was part of the scheme and artifice to defraud that defendant JAMES D. LEVITT purported to purchase Centre Street from RER.

32. It was part of the scheme and artifice to defraud that in order to purchase Centre Street, on or about September 20, 2007, defendant JAMES D. LEVITT submitted a mortgage application to Chase which identified defendant JAMES D. LEVITT as the mortgage applicant and which he knew contained false information and omitted material information, including but not limited to:

(a) that defendant JAMES D. LEVITT intended to utilize the property as his primary residence when the property was intended to be controlled by CAT Financial for its investment purposes; and,

(b) that there were no outstanding judgments against defendant when, in fact, defendant JAMES D. LEVITT then there knew that there was an outstanding judgment against defendant JAMES D. LEVITT in the approximate amount of \$432,728 by the State of Rhode Island.

33. It was further part of the scheme and artifice to defraud that on or about November 16, 2007, defendant JAMES D. LEVITT executed and caused to be submitted to Chase an "Occupancy Agreement" which falsely and fraudulently represented that defendant JAMES D. LEVITT intended to occupy the Centre Street as his primary residence.

D. Execution of the Scheme

34. On or about November 16, 2007, in the District of Rhode Island and elsewhere, the defendant JAMES D. LEVITT knowingly and intentionally executed and attempted to execute a scheme and artifice to defraud Chase Bank, a federally insured financial institution, by obtaining a mortgage in the amount of \$242,250 for the purchase of 64-66 Centre Street based on submission of materially false and fraudulent documents, in violation of 18 U.S.C. §§ 1344.

COUNT 6

A. Introduction

35. The allegations contained in paragraphs 1 and 26 through 28 are repeated and realleged as though fully set forth herein.

B. The Scheme

36. During the period from at least in on or about May 2007, through in or about November 2007, in the District of Rhode Island and elsewhere, defendant JAMES D. LEVITT knowingly and intentionally devised a scheme and artifice to defraud and to obtain moneys and property from Chase Bank by means of false and fraudulent pretenses, representations and promises.

C. Manner and Means

37. The substance of the scheme and artifice, and its manner and means are described in paragraphs 30 through 33 of Count Five of this Indictment, the allegations of which are incorporated by this reference as though fully set forth herein.

D. Execution of the Scheme

38. On or about November 16, 2007, in the District of Rhode Island and elsewhere, for the purpose of executing the aforementioned scheme and artifice to defraud, defendant JAMES D. LEVITT knowingly transmitted and caused to be transmitted in interstate commerce signs, signals, and sounds, according to the directions thereon, that is, a wire transfer of funds, in the approximate amount of \$244,777, from Chase Bank, to fund the purchase of 64-66 Centre Street, in violation of 18 U.S.C. § 1343.

COUNT 7

On or about October 13, 2007, defendant JAMES D. LEVITT, in the District of Rhode Island, did willfully make and subscribe a false U.S. Individual Income Tax Return (Form 1040), for the tax year 2006, which was verified by a written declaration that it was under the penalties of perjury and was filed with the Internal Revenue Service, which said income tax return he did not believe to be true and correct as to every material matter in that the said return reported income in the amount of \$21,020, on Form 1040, line item 22, whereas defendant JAMES D. LEVITT then and there well knew and believed that he had received income substantially in addition to the amount reported, all in violation of 26 U.S.C. § 7206(1).

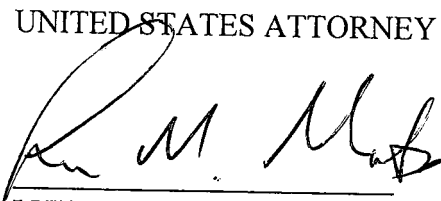
COUNT 8


On or about October 14, 2008, defendant JAMES D. LEVITT, in the District of Rhode Island, did willfully make and subscribe a false U.S. Individual Income Tax Return (Form 1040), for the tax year 2007, which was verified by a written declaration that it was under the penalties of perjury and was filed with the Internal Revenue Service, which said income tax return he did not believe to be true and correct as to every material matter in that the said return reported income in the amount of \$10,529, on Form 1040, line item 22, whereas defendant JAMES D. LEVITT then and there well knew and believed that he had received income substantially in addition to the amount reported, all in violation of 26 U.S.C. § 7206(1).

A TRUE BILL:

PETER F. NERONHA
UNITED STATES ATTORNEY

REDACTED


LUIS M. MATOS
Assistant U.S. Attorney

for  FAUSA
STEPHEN G. DAMBRUCH
Criminal Chief
Assistant U.S. Attorney

Date: 5/24/11

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION DISTRICT COURT

BY: ☐ INFORMATION ☒ INDICTMENT ☐ COMPLAINT

CASE NO.

CR 11**089 M**Matter Sealed: ☐ Juvenile ☐ Other than Juvenile☐ Pre-Indictment Plea ☐ Superseding ☐ Defendant Added
☐ Indictment ☐ Charges/Counts Added
☐ Information

Name of District Court, and/or Judge/Magistrate Location (City)

UNITED STATES DISTRICT COURT RHODE ISLAND
DISTRICT OF Divisional OfficeName and Office of Person
Furnishing Information on
THIS FORM

PETER F. NERONHA

☐ U.S. Atty ☐ Other U.S. Agency
Phone No. (401) 709-5000Name of Asst.
U.S. Attorney
(if assigned)

LUIS M. MATOS

PROCEEDING

Name of Complainant Agency, or Person (& Title, if any)
Federal Bureau of Investigations☐ person is awaiting trial in another Federal or State Court
(give name of court)☐ this person/proceeding transferred from another district
per (circle one) FRCrP 20, 21 or 40. Show District☐ this is a reprosecution of charges
previously dismissed which were
dismissed on motion of:☐ U.S. Atty ☐ Defense☐ this prosecution relates to a
pending case involving this same
defendant. (Notice of Related
Case must still be filed with the
Clerk.)☐ prior proceedings or appearance(s)
before U.S. Magistrate Judge
regarding this defendant were
recorded underSHOW
DOCKET NO.MAG. JUDGE
CASE NO.Place of
offense RHODE ISLAND

County

USA vs.

Defendant: JAMES D. LEVITT

Ad:

Bir
Da

So:

REDACTEDAlien
(applicable)Issue: ☐ Warrant ☒ Summons

Location Status:

Arrest Date _____ or Date Transferred to Federal Custody _____

☐ Currently in Federal Custody☐ Currently in State Custody☐ Writ Required☐ Currently on bond☐ Fugitive

Defense Counsel (if any): Brendon Bell, Esquire

☐ FPD ☐ CJA ☐ RET'D☐ Appointed on Target Letter☐ This report amends AO 257 previously submitted

OFFENSE CHARGED - U.S.C. CITATION - STATUTORY MAXIMUM PENALTIES - ADDITIONAL INFORMATION OR COMMENTS

Total # of Counts 8

Set	Title & Section/Offense Level (Petty = 1 / Misdemeanor = 3 / Felony = 4)	Description of Offense Charged	Felony/Misd.
	PLEASE SEE ATTACHED SHEET		<input checked="" type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor
			<input type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor
			<input type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor
			<input type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor
			<input type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor
		ESTIMATED TRIAL DAYS= 3-5	<input type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor

U.S. V. JAMES D. LEVITT

COUNTS & PENALTIES

COUNTS 1-2:

18 U.S.C. §§1344 and 2 - Bank Fraud

Max Penalties for each count: 30 years imprisonment; \$1,000,000 fine; 3 years supervised release; \$100 mandatory special assessment.

COUNTS 3-4:

18 U.S.C. §§1343 and 2 - Wire Fraud

Max Penalties for each count: 5 years imprisonment; \$250,000 fine; 3 years supervised release; \$100 mandatory special assessment.

COUNT 5:

18 U.S.C. §1344 - Bank Fraud

Max Penalties: 30 years imprisonment; \$1,000,000 fine; 3 years supervised release; \$100 mandatory special assessment.

COUNT 6:

18 U.S.C. §1343 - Wire Fraud

Max Penalties: 5 years imprisonment; \$250,000 fine; 3 years supervised release; \$100 mandatory special assessment.

COUNT 7-8:

26 U.S.C. §7206(1) - Filing False Tax Returns

Max Penalties: for each count: 3 years imprisonment; \$100,000 fine; 3 years supervised release; \$100 mandatory special assessment.

Estimated time for trial: 3-5 days